

DIVISION OF APPRENTICESHIP STANDARDS
FINAL STATEMENT OF REASONS
FOR PROPOSED ACTION TO AMEND
CALIFORNIA CODE OF REGULATIONS, TITLE 8, CHAPTER 2, PART IV,
SECTIONS 290.1, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, and 295.0
AND TO ADOPT SECTIONS 296.0, 296.1, 296.2, 296.3, and 296.4.

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FINAL STATEMENT OF REASONS

Update of Initial Statement of Reasons

No update of the Initial Statement of Reasons is needed.

Local Mandate Determination

The proposed regulations do not impose any mandate on local agencies or school districts.

Summary and Response to Comments

Office of Small Business Advocate

No comments were received from the Office of Small Business Advocate.

Regulation 290.1 Definitions

It is problematic to define electricians in relation to the NEC, as neither AB 931, AB 1087 nor Labor Code §3099 contains any reference to the NEC. The definitions for the five categories of electrician should have all references to the NEC removed.

RESPONSE: The Division disagrees with these comments. The definitions for the five categories of electricians are not subjects of the present rulemaking. They were adopted in the prior rulemaking. In this rulemaking, the definitions are only being moved to make room for new definitions and in order to alphabetize the section. Thus, no response is necessary. We note that in the prior rulemaking there was no objection to the Division's determination to define electricians with relation to the National Electric Code ["NEC"]. We note also that the NEC is the most widely used code throughout the State, and is the code adopted by the State of California Building Standards Commission, thus making it reasonable and appropriate to define categories of electricians with reference to scope of work as outlined in the NEC.

The regulations should clarify that only certain employees of electrical contractors are required to be certified: those who "engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Professions Code."

RESPONSE: The Division disagrees with these comments. The statute defines who must be certified; the regulations cannot make a clarification that contravenes the provisions of the statute. Here, Labor Code §3099.2 provides that persons who perform work as electricians must become certified pursuant to Labor Code §3099, and Labor Code §3099(c) defines "electricians" as "includes all persons who engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically, contractors classified as electrical contractors in the Contractors' State License Board Rules and Regulations," and also provides limited exceptions. It is not necessary to have a

regulation that merely repeats what is already provided in Labor Code §§3099.2 and 3099.

The regulations should clarify that they do not apply “to electrical connections under 100 volt-amperes.” (See Labor Code §3099(c))

RESPONSE: The Division disagrees with this comment. Labor Code §3099(c) already provides that “This section does not apply to electrical connections under 100 volt-amperes.” It is not necessary to have a regulation that merely repeats what is already provided in the statute.

For the definition of “Approved Curriculum,” you should strike out the words “a program of classes” and just have it read: “Approved curriculum is comprised of instruction.” Otherwise people will get confused or upset, thinking that a program is a whole big deal rather than just some classes.

RESPONSE: The Division disagrees with this comment. The statutory authority establishes that approved curriculum means a curriculum of classroom instruction approved by the electrician certification curriculum committee, provided under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges, and that the enrollee attend classes on a full-time or part-time basis toward the completion of the entire curriculum. Labor Code §3099.4(b), (c). The proposed definition referring to “program of classes” more clearly reflects the intent of the Legislature that there be a comprehensive program of classes, than a mere reference to “instruction.”

For the definition of “Approved Curriculum,” clarification is needed to include and require the hands-on component of approved curriculum, so the term “lab instruction” should be inserted into the definition.

RESPONSE: The Division disagrees with this comment. The statutory authority establishes that approved curriculum means a curriculum of classroom instruction approved by the electrician certification curriculum committee, provided under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges. Since the committee, State Department of Education, and the California Community Colleges have jurisdiction to determine the components of approved curriculum, and not the Division, such substantive requirements of the curriculum would not be an appropriate subject of these regulations.

For the definition of “Approved Curriculum,” clarification is needed as to whether it can meet some or all of the total elements.

RESPONSE: The Division disagrees with this comment. In the proposed rulemaking, Approved Curriculum is defined so as to be a useful term throughout these regulations and consistent with the statutory definition found at Labor Code §3099.4(b). For example, for purposes of the ability of an electrician trainee to perform work for which certification would otherwise be required, the statute requires that the trainee has completed or enrolled in an Approved Curriculum. Labor Code §3099.4(a)(2). For purposes of eligibility to take the certification test,

the proposed rulemaking provides that a trainee may take the test after completing an Approved Curriculum for the category for which the trainee is testing. Regulation 291.2(g). On the other hand, the proposed rulemaking also provides that educational providers may offer Approved Curriculum which may satisfy the Curriculum Standards in whole or in part, giving such notice in its publications. Regulation 296.0(d). Accordingly, if Approved Curriculum were defined as the commenter suggests, to include whole or partial curriculum, it would be confusing and create erroneous interpretations among the various scenarios in which the term Approved Curriculum is used.

Regulation 291.1 Eligibility for Certification

291.1(a). Regarding eligibility for nonresidential lighting technician certification, it is suggested to add at end of subsection 291.1(a) on page 8: “The experience requirement for Nonresidential Lighting Technician may also be satisfied by proof of NALMCO certification as a Master Lighting Technician or Certified Lighting Management Consultant.”

RESPONSE: The Division disagrees with this comment. The comment does not address a subject of the present rulemaking, and thus does not require a response. The Division also notes that Regulation 291.1(c) provides that credit may be granted for other experience by the Chief DAS, if the Chief determines that the experience is comparable to that required under Regulation 291.1(a). This provision is sufficient to enable a NALMCO certification holder to apply for whatever credit such certification would provide.

291.1(b) needs more clarification regarding the level of scrutiny to be applied to reciprocity requests for out-of-state licenses, needs more clarification regarding what timelines applies for the Chief to act on reciprocity requests, and needs more clarification regarding the process by which an applicant can get a decision on whether his out-of-state license is comparable. A system is suggested such as Washington’s temporary electrician permit with a specific time limit.

RESPONSE: The Division disagrees with these comments. The comments do not address a subject of the present rulemaking. This rulemaking merely corrected a minor error from the initial rulemaking: *i.e.*, to change an “and” to an “or,” in order to clarify that proof of experience may be shown by successful completion of an apprenticeship program, or by on-the-job experience, but that proof of both is *not* required. Moreover, the regulations are sufficiently clear regarding the process for claims of reciprocity, in that claims of reciprocity are handled within the procedure and timelines applicable to certification applications generally, and would be subject to the same appeal rights as denial of certification generally. Regulations 291.2 and 293.0.

Regulation 291.2 Application for Certification and Examination

Regulation 291.2(c)

Some form of ID should be required or accepted other than driver's license, as many of the available employees to do this work are immigrants and it's a burden on our industry to require that, and it's not related to training, education, certification, or safety.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response.

Regulation 291.2(d)

Clarification is needed as to how proof of experience must be provided.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response.

Clarification is needed as to whether an applicant is able to work if deemed eligible for exam, whether they also have to be in apprenticeship program or registered as trainee.

RESPONSE: The Division disagrees with these comments. The pertinent statutes provide who is required to be certified in order to perform certain electrical work, and the conditions under which applicants and electrician trainees may be able to perform this work subject to an exemption from the certification requirements. Labor Code §3099(c); 3099.2(a)(1), (b), (d)-(g), (h). It is not necessary or appropriate for these regulations to merely repeat the statutory provisions.

In the phrase "Except as provided in (f) and (g)" there should be a period instead of a comma, and for clarity's sake, this sentence should appear much earlier in the section.

RESPONSE: The Division disagrees with these comments. The phrase "Except as provided in subsections (f) and (g)" does end with a comma, not a period.

Moreover, this sentence is placed appropriately. This sentence is placed in a subsection that sets forth the requirement that the applicant for certification submit proof of experience. This sentence provides that only applicants who have the required experience are eligible to take the certification examination, except for certain cases. Thus, it is reasonable and appropriate to place both sentences in the same subsection.

There should be more clarification, *i.e.*, a nice statement of how things go.

RESPONSE: The Division disagrees with these comments. The Division considers that the regulation is sufficiently clear regarding the application process for certification and examination.

Regulation 291.2(e)

When DAS informs that application is insufficient, it should be obligated to provide accurate and specific information why. This also brings the language regarding DAS responsibilities in line with that in 291.5 and 296.1(d). Accordingly, change the word “advise” in 291.2(e) to “inform.”

RESPONSE: The Division disagrees with these comments. The word “advise” is not significant different from the word “inform.” The Division contemplates that the regulatory provision for informing an applicant of a deficient application includes informing the applicant of the reasons why the application is deficient.

We employ 100-400 electricians at times. We do a lot of work in refineries. There are not a lot of people qualified or trained in the work. So we use a lot of temporary workers from out of state (e.g., Louisiana, Texas). Please clarify certification application process because it appears that there would not be enough time to get these workers licensed or get them permits.

RESPONSE: The Division disagrees with these comments. The timeframes are clear and are considered reasonable for the certification process: *i.e.*, 30 days for the Division to review the application and determine whether the applicant is eligible to take the certification examination, or whether the application is deficient or the applicant has submitted insufficient proof of experience to be deemed eligible to take the certification examination. Regulation 291.2(e). An electrician license is not a subject of the present rulemaking or of this Division’s authority, and hence a response is not required to this aspect of the comment.

It is unreasonable to have an applicant who does not pass the test within one year of date of eligibility to submit a new application and make new payment of fees. Instead, there should be a small, appropriate penalty if the applicant is unable to complete the same, as well as an appeals process for the applicant to explain circumstances surrounding the delay to have penalty waived.

RESPONSE: The Division disagrees with these comments. The purpose of the certification process is to get electricians certified, not to create a situation where an applicant is continually taking the test. The Division considers that a year is an appropriate long time to enable an electrician to take the test. Otherwise, application materials and experience in the field may become stale. Moreover, there is no statutory authority to impose a penalty for failure to pass the test within a certain period of time, and it would be inappropriate, as part of the certification process, to punish unsuccessful applicants who would already presumably be suffering from inability to perform certain electrical work due to their lack of certification.

Regulation 291.2(g)

The reference here in 291.2(g) to Approved Curriculum should specifically refer to the number of hours required in an Approved Curriculum.

RESPONSE: The Division disagrees with this comment. The reference here to Approved Curriculum is for the purpose of providing that an Electrician Trainee who has completed an Approved Curriculum for the classification for which certification is sought may test for the certification examination. It does not require a specific reference to the number of hours required by the curriculum. Moreover, Approved Curriculum is defined as a program of classes pursuant to curriculum approved by the Curriculum Committee. Regulation 290.1. The Curriculum Committee is charged with the adoption of Curriculum Standards, and presumably will adopt different sets of curriculum standards pertinent to each of the five categories of electricians established by the Division. Labor Code §3099(a)(3); 3099.2(c); Regulation 291.1. Thus, it does not make sense to have a specific reference to numbers of hours of curriculum required by the standards in the regulations, when such substantive requirements of the curriculum are under the jurisdiction of the Curriculum Committee, and may vary.

The reference here in 291.2(g) to Approved Curriculum should clarify how it is determined what constitutes an Approved Curriculum.

RESPONSE: The Division disagrees with this comment. The reference here to Approved Curriculum is for the purpose of providing that an Electrician Trainee who has completed an Approved Curriculum for the classification for which certification is sought may test for the certification examination. It does not require a determination as to what constitutes an approved curriculum. Moreover, Approved Curriculum is defined as a program of classes pursuant to curriculum approved by the Curriculum Committee, Regulation 290.1, the Curriculum Committee is charged with the adoption of Curriculum Standards, Labor Code §3099(a)(3), and the proposed rulemaking already sufficiently provides a process for approval of individual proposed curriculums. Regulation 296.0. Thus, this matter is already covered by the pertinent statutes and regulations.

The reference here in 291.2(g) to Approved Curriculum should not state that the trainee must submit a certification of completion of an approved curriculum because community colleges don't give certificates.

RESPONSE: The Division disagrees with this comment. The term “certificate of completion” is not intended to refer to one unique type of document. Rather, any proof of completion of an Approved Curriculum for the classification for which certification is sought would constitute a “certificate of completion” for purposes of these regulations. Community colleges and other educational providers offering Approved Curriculum should certainly be able to issue some form of certificate of completion of the classes required to fulfill an Approved Curriculum.

The reference here in 291.2(g) to Approved Curriculum should clarify that an electrician trainee must complete the *entire* approved curriculum in order to be eligible to take and certification examination.

RESPONSE: The Division disagrees with this comment. The provision that “An Electrician Trainee who has completed an Approved Curriculum for the classification for which certification is sought . . . is eligible to take the certification examination” is a sufficiently clear provision that the entire approved curriculum for that classification must be completed.

The regulation should clarify whether electrician trainees may take the examination if they have the requisite hours of work experience but do not yet have the coursework.

RESPONSE: The Division disagrees with this comment. The regulations in place already provide that an applicant with sufficient hours of experience would be eligible to take the certification examination, regardless of that applicant’s status as an electrician trainee. Regulation 291.1(a); 291.2(d). There is no reason to re-state this provision separately with regard to electrician trainees.

The regulation should clarify the status of electrician trainees if they have passed the exam with hours of experience but do not yet have the coursework.

RESPONSE: The Division disagrees with this comment. The regulations in place already provide that an applicant with sufficient hours of experience who passes the certification examination would be certified. Regulation 291.1(a). There is no reason to re-state this provision separately with regard to electrician trainees.

The regulation should clarify the status of electrician trainees who have completed a course, or one year of a course.

RESPONSE: The Division disagrees with this comment. The regulations in place provide sufficiently and clearly for a process and a system for the registration of electrician trainees. There is no need to make a special provision regarding electrician trainees who have completed one course or one year of a course.

The regulation should clarify whether “Approved Curriculum” can meet some or all of the total elements.

RESPONSE: The Division disagrees with this comment. In the proposed rulemaking, Approved Curriculum is defined so as to be a useful term throughout these regulations and consistent with the statutory definition found at Labor Code §3099.4(b). For example, for purposes of the ability of an electrician trainee to perform work for which certification would otherwise be required, the statute requires that the trainee has completed or enrolled in an Approved Curriculum. Labor Code §3099.4(a)(2). For purposes of eligibility to take the certification test, the proposed rulemaking provides that a trainee may take the test after completing an Approved Curriculum for the category for which the trainee is testing. Regulation 291.2(g). On the other hand, the proposed rulemaking also provides that educational providers may offer Approved Curriculum which may satisfy the Curriculum Standards in whole or in part, giving such notice in its publications. Regulation 296.0(d). Accordingly, if Approved Curriculum were defined as the

commenter suggests, to include whole or partial curriculum, it would be confusing and create erroneous interpretations among the various scenarios in which the term Approved Curriculum is used.

The regulation should clarify whether a trainee to take the exam must complete all the curriculum, or only complete the curriculum he's enrolled in, even though it may not constitute the total curriculum.

RESPONSE: The Division disagrees with this comment. Regulation 291.2(g)'s provision that "An Electrician Trainee who has completed an Approved Curriculum for the classification for which certification is sought . . . is eligible to take the certification examination" is a sufficiently clear provision that the entire approved curriculum for that classification must be completed.

The regulation should clarify whether an electrician trainee can take the test after completing the coursework but still needs hours to be certified.

RESPONSE: The Division disagrees with this comment. Regulation 291.2(g)'s provisions that "An Electrician Trainee who has completed an Approved Curriculum for the classification for which certification is sought and is currently registered as an Electrician Trainee is eligible to take the certification examination. . . . The Electrician Trainee shall not be certified until he or she passes the examination and submits proof of experience . . ." is a sufficiently clear provision that the trainee may take the test upon completing the coursework but still needs the hours of experience to be certified.

A number of commenters were concerned about the potential for electrician trainees to be trainees indefinitely. Some commented that the regulations should establish a deadline by which the "trainee" takes exam. Some commented that the regulation clarify whether there is a time limit for how long a person can work as an electrician trainee, or whether this may be permitted for life. Others commented that the regulation should not permit a person to pay a one-time fee of \$25.00 to continue work as an electrician, as it dilutes the value of certification and of apprenticeship programs and does nothing to protect the citizens of California from improper electrical installations. One commented that there should be a time limit on the \$25.00 registration fee, because otherwise people can be trainees and work for years without paying more than \$25.00, while certified people need to pay \$100.00 to renew every 3 years, and have 32 hours of continuing education.

RESPONSE: The Division disagrees with these comments. The Division notes that the applicable statute provides that uncertified persons may perform electrician work for which certification is required under Section 3099 in order to acquire the necessary on-the-job experience for certification, under certain conditions. This provision was added by the Legislature to create an alternative pathway for interested persons to become certified electricians other than through apprenticeship programs. One of the conditions is that the person either has completed or is enrolled in an approved curriculum of classroom instruction, and if they are "enrolled," they must be attending classes on a full-time or part-time basis toward the completion of the curriculum. The Legislature also provided that the registration fee for electrician trainee could not exceed \$25.00, and that there could

be no fee for annual renewal of registration. Labor Code §3099.4. The Division's authority in this regard is simply to issue regulations to implement the section. Labor Code §3099.4(f). Under these circumstances, the Division does not consider that a deadline for trainees to pass the certification examination is warranted.

Regulation 291.3 Certification Examination

A number of comments argued that because the certification process requires the applicant to pass a written test, that many fine electricians will be unable to become certified because of literacy problems, that there should be options for taking an on-the-job or other test as opposed to a written test to accommodate this situation, and that applicants should be able to request accommodation for special circumstances such as illiteracy in the same way that Spanish-speakers receive accommodation for their lack of English language skills.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response. The prior rulemaking established the requirement that certification applicants pass a written test. The present rulemaking merely amends this regulation in order to implement the statutory directive that the test be given in Spanish and, to the extent practicable, other non-English languages spoke by a substantial number of applicants as defined in Section 7296.2 of the Government Code. Labor Code §3099.3(b). The Division further notes that the present regulations already provide that applicants may request special accommodation for the examination on account of disability. Regulation 291.3(e).

Regarding the language of the certification test, one commenter argued that the test should only be given in English. Several commenter argued that the test should be given in Chinese for the great numbers of Chinese speaking electricians, and also argued for a 1-year extension of the certification deadline for Asian electricians for this reason. One commenter argued that testing needs to be in Portuguese to accommodate its best employee.

RESPONSE: The Division disagrees with these comments. The present rulemaking amends this regulation in order to implement the statutory directive that the test be given in Spanish and, to the extent practicable, other non-English languages spoke by a substantial number of applicants as defined in Section 7296.2 of the Government Code. Labor Code §3099.3(b). The Division cannot implement regulations that contradict this statutory provision. The Division notes that the comment regarding extension of the certification deadline is not addressed to the present rulemaking and thus does not require a response. In any case, extensions of the certification deadline are under the jurisdiction of the California Apprenticeship Council, not the Division, as set forth in Labor Code §3099.2(a)(2).

One commenter asked when will tests be available for VDV and nonresidential lighting technicians.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response.

291.3(g) should “require” applicant to present valid photo identification at examination.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response.

Several commenters argued that the regulations and certification test should be updated to the 2002 NEC, since the State of California Building Standards Commission has now adopted the 2002 NEC.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response.

Regulation 291.4 Retesting

It is unreasonable to have an applicant who does not pass the test within one year of date of eligibility to submit a new application and make new payment of fees. Instead, there should be a small, appropriate penalty if the applicant is unable to complete the same, as well as an appeals process for the applicant to explain circumstances surrounding the delay to have penalty waived.

RESPONSE: The Division disagrees with these comments. The purpose of the certification process is to get electricians certified, not to create a situation where an applicant is continually taking the test. The Division considers that a year is a sufficiently long time to enable an electrician to take the test. Otherwise, application materials and experience in the field may become stale. Moreover, there is no statutory authority to impose a penalty for failure to pass the test within a certain period of time, and it would be inappropriate, as part of the certification process, to punish unsuccessful applicants who would already presumably be suffering from inability to perform certain electrical work due to their lack of certification.

Regulation 291.5 Renewal and Replacements

The regulation should clarify who pays for journeymen’s continuing education.

RESPONSE: The Division disagrees with this comment. The present rulemaking merely amends the requirement for continuing education with a requirement that it be offered by an entity coming within the scope of the Educational Provider definition: *i.e.*, a community college, public school district, public educational institution, or state-licensed private post-secondary institution under contract with a public educational institution, community college or public school district. There is no necessity to regulate or restrict who pays for the continuing education.

The regulation should clarify how journeymen’s continuing education is to be submitted to Curriculum Committee.

RESPONSE: The Division disagrees with this comment. There is no requirement or proposed requirement that continuing education be approved by or submitted to the Curriculum Committee. Regulation 291.5. The Curriculum Committee’s responsibility is to approve curriculum standards where uncertified persons registered with the Division are engaged in a course of study and work experience

designed to enable them to become certified electricians. The Curriculum Committee does not have responsibility regarding continuing education. Labor Code §§3099(a)(3); 3099.4; Regulations 291.5; 296.0. Thus, the commenter's suggestion is inconsistent with the statutory and regulatory scheme.

The regulation should clarify whether the 32-hour course of continuing education must also be approved by the Curriculum Committee.

RESPONSE: The Division disagrees with this comment. The regulatory and statutory provisions are sufficiently clear that there is no requirement or proposed requirement that continuing education be approved by or submitted to the Curriculum Committee. The Curriculum Committee's responsibility is to approve curriculum standards where uncertified persons registered with the Division are engaged in a course of study and work experience designed to enable them to become certified electricians. The statute does not provide the Curriculum Committee with responsibility regarding continuing education, nor do the regulations or proposed regulations provide for this. Labor Code §§3099(a)(3); 3099.4; Regulations 291.5; 296.0.

The regulation should clarify whether the reference to "Educational Provider" includes programs approved by an LEA.

RESPONSE: The Division disagrees with this comment. Educational Provider is defined in Regulation 290.1, and this definition is sufficiently clear to speak for itself. Neither the pertinent statutes nor the regulations in this section refer to "LEA"s, so it would not be reasonable or appropriate to employ that term here.

The regulation should clarify whether contractors can train in-house and submit their own programs as approved curriculum, or whether they would be required to use an LEA.

RESPONSE: The Division disagrees with this comment. The Division notes first that it is unclear whether the commenter intends the comment to refer to Approved Curriculum for electrician trainees, or to curriculum to fulfill the continuing education requirement for certified electricians. Either way, the Division submits that the proposed regulations are sufficiently clear as to the process and requirements for offering an Approved Curriculum for purposes of electrician trainees, Regulation 296.0, or to the curriculum that may satisfy the continuing education for certified electricians, Regulation 291.5(a). Moreover, since neither the pertinent statutes nor the regulations in this section refer to "LEA"s, it would not be reasonable or appropriate to employ that term here.

The regulation should clarify whether seminars or PG&E training centers may provide the continuing education required for certification renewal.

RESPONSE: The Division disagrees with this comment. The present rulemaking amends the requirement for continuing education with a requirement that it be offered by an entity coming within the scope of the Educational Provider definition: *i.e.*, a community college, public school district, public educational institution, or state-licensed private post-secondary institution under contract with a public educational institution, community college or public school district. This is a

sufficiently clear statement of who may provide the continuing education required for certification renewal.

The regulation should establish that, due to DAS' limited staff, priority be given to certain applications, such as those submitted via internet, to help avoid lapse in certification.

RESPONSE: The Division disagrees with this comment. The proposed rulemaking puts a timeline of 30 days into place for the Division to act on renewal applications, and further provides that a successful renewal application postmarked or received at the Division 30 days before the end of the certification period would be renewed without a lapse. Regulation 291.5. These provisions are more than sufficient to protect a diligent applicant from a lapse situation. Moreover, it does not appear how priority for applications submitted via internet would be warranted.

Regulation 292.0 Fees

Some commented that the regulation should not permit a person to pay a one-time fee of \$25.00 to continue work as an electrician, as it dilutes the value of certification and of apprenticeship programs and does nothing to protect the citizens of California from improper electrical installations. One commented that there should be a time limit on the \$25.00 registration fee, because otherwise people can be trainees and work for years without paying more than \$25.00, while certified people need to pay \$100.00 to renew every 3 years, and have 32 hours of continuing education.

RESPONSE: The Division disagrees with these comments. The Division notes that the applicable statute provides that uncertified persons may perform electrician work for which certification is required under Section 3099 in order to acquire the necessary on-the-job experience for certification, under certain conditions. This provision was added by the Legislature to create an alternative pathway for interested persons to become certified electricians other than through apprenticeship programs. One of the conditions is that the person either has completed or is enrolled in an approved curriculum of classroom instruction, and if they are "enrolled," they must be attending classes on a full-time or part-time basis toward the completion of the curriculum. The Legislature also provided that the registration fee for electrician trainee could not exceed \$25.00, and that there could be no fee for annual renewal of registration. Labor Code §3099.4. The Division's authority in this regard is simply to issue regulations to implement the section, Labor Code §3099.4(f), and cannot contravene the statute's directive that a one-time fee no higher than \$25.00 be assessed for registration.

**Regulation 295.0 Publication of names;
responsibility to provide a current address**

There were several comments regarding privacy concerns of publication, specifically that publication of a personal address or of zip codes implicates privacy concerns, that Labor Code §3099.4 does not provide authority for listing locations, and a request that the regulations clarify that the Division will only print trainee's names and zip codes, and not addresses.

RESPONSE: The Division disagrees with these comments. The regulation provides that zip codes of the mailing addresses of certified electrician and electrician trainees be published with the names. It does not provide for listing of trainee's addresses. Listing zip codes of mailing addresses is reasonably necessary for consumers and employers to identify certified electricians and trainees in their areas, and does not unduly implicate privacy concerns. Moreover, having a zip code to match with a name will assist consumers and employers in verifying the identification of a certified electrician or trainee. Labor Code §3099.4(a)(1) directs the Division to maintain a list of current registrants and make it available to the public upon request. The authority to list current registrants reasonably contemplates the authority to include such information on the list as to enable members of the public to identify certified electricians and trainees, such as information like zip codes that identifies the certified electrician's or trainee's geographic area.

There were several comments regarding the frequency with which the Division would update the publication of names. One requested that the regulations clarify that the listing of trainees would be updated at least quarterly, if not every six months, because trainee's status can change quickly. One requested that the list be updated every 60 days or quarterly, and suggested that more frequent updating could be funded by increasing electrician trainee fee to minimum of \$100 / year.

RESPONSE: The Division disagrees with these comments. The proposed regulation amends the prior regulation to add a provision that the list be updated at least yearly. The Division may update the list more often as indicated by circumstances and allowed by staffing, but considers that a minimal requirement for updating the list once a year is sufficient. Furthermore, the Legislature has set the electrician trainee registration fee at a one-time fee of maximum \$25.00. Labor Code §3099.4(e).

**296.0 Curriculum Committee; Curriculum
Standards; Approved Curriculum**

General Comments

DAS should develop a clear and concise information packet for companies to develop their own state-approved training programs.

RESPONSE: The Division notes that this is not a comment on the regulations and thus does not require a response.

A community college is a good place to learn about the codes and some of the basics, but you can really only learn to be an electrician from a qualified electrician, The State should leave the teaching of apprentices to the unions, the Associated Electrical Contractors of America, and the Associated Building Contractors.

RESPONSE: The Division notes that this comment is addressed to the statutory provision that electrician trainee education be provided under the jurisdiction of the Department of Education and the Board of Governors of the Community Colleges. Labor Code §3099.4(b). As such it is not a comment on the regulations and thus does not require a response.

Corinthian/Titan already offers training programs that match the state's electrical industry training criteria and would qualify an individual to take the certification examination.

RESPONSE: The Division notes that this comment appears to be addressed to the statutory provision that electrician trainee education be provided under the jurisdiction of the Department of Education and the Board of Governors of the Community Colleges. Labor Code §3099.4(b). As such it is not a comment on the regulations and thus does not require a response. The Division further responds that the proposed rulemaking provides that an Educational Provider – *i.e.*, a community college, public school district, public educational institution, or state-licensed private post-secondary institution under contract with a public educational institution, community college, or public school district -- may apply for approval of its curriculum for electrician trainees. Regulations 296.0(c), 290.1.

Licensed, private postsecondary institutions like ours should be eligible to be an educational provider. Particularly given the widely reported capacity limitations in the state's community colleges at present, and the overriding need for well-trained electricians in the state, and the clear capabilities of the private postsecondary institutions.

RESPONSE: The Division notes that this comment appears to be addressed to the statutory provision that electrician trainee education be provided under the jurisdiction of the Department of Education and the Board of Governors of the Community Colleges. Labor Code §3099.4(b). As such it is not a comment on the regulations and thus does not require a response. The Division further responds that the proposed rulemaking provides that an Educational Provider – *i.e.*, a community college, public school district, public educational institution, or state-licensed private post-secondary institution under contract with a public educational institution, community college, or public school district -- may apply for approval of its curriculum for electrician trainees. Regulations 296.0(c), 290.1.

The regulations should clarify how training is to be provided, whether it would be provided through a new contract, and how the costs are to be covered.

RESPONSE: The Division disagrees with these comments. Labor Code §3099.4(b) provides that the trainee's curriculum is to be provided under the jurisdiction of the Department of Education and the Board of Governors of the Community Colleges, not the Division. Thus, the issues of the curriculum delivery system, its contracts,

and its costs are not a subject of the present rulemaking, and as such a response is not required.

The regulation should clarify whether there is a requirement to submit curriculum to Curriculum Committee, and if so, how.

RESPONSE: The Division disagrees with these comments. The applicable statute already requires that an approved curriculum of classroom instruction for trainees must be approved by the electrician certification curriculum committee. Labor Code §3099.4(b). There is no need to repeat this provision in the regulations. Regulation 296.0(c) sets forth the process by which an Educational Provider may apply for such approval. This regulation sets forth the application process with sufficient clarity.

Regulation 296.0(a)

One comment asked why is the Curriculum Committee restricted to representatives of the State Department of Education, the California Community Colleges, and the Division.

RESPONSE: The Division notes that this is not a comment on the regulations and thus does not require a response. The Division further notes that the Legislature set by statute the directive that the curriculum committee be comprised of representatives of the State Department of Education, the California Community Colleges, and the Division. Labor Code §3099(a)(3).

The Curriculum Committee is comprised of individuals who appear to have a very limited exposure to the construction industry. I believe it should be comprised of an equal number of voting members from both the electrical industry and academia. This would eliminate the appearance of improprieties and allow those who teach and use the end product the necessary oversight into what is actually relevant in today's construction industry.

RESPONSE: The Division notes that this comment is addressed to the statutory directive that the committee be comprised of representatives of the State Department of Education, the California Community Colleges, and the Division. Labor Code §3099(a)(3). As such, it does not address the present rulemaking and thus does not require a response. The Division further notes that Regulation 296.0(a) provides that the committee members may appoint up to three non-voting advisory members to attend committee meetings. The Division considers that the provision for advisory members will enhance representation from the industry.

Appointments of advisors to the committee should be consistent with current US DOL statistics regarding California union membership in the construction industry, to ensure fairness in the process and neutrality in disputes involving organized labor.

RESPONSE: The Division disagrees with this comment. The Division considers that the appointment of advisory members to the committee should be within the discretion of the committee members designated by the Legislature under Labor Code §3099(a)(3). Moreover, applicable statutory provisions already provide that

there shall be no discrimination for or against any person based on membership or nonmembership in a union in electrician certification. Labor Code §3099(b).

Industry advisor members should have a vote.

RESPONSE: The Division notes that this comment is addressed to the statutory directive that the committee be comprised of representatives of the State Department of Education, the California Community Colleges, and the Division. Labor Code §3099(a)(3). As such, it does not address the present rulemaking and thus does not require a response. The Division further notes that Regulation 296.0(a) provides that the committee members may appoint up to three non-voting advisory members to attend committee meetings. The Division considers that the provision for advisory members will enhance representation from the industry consistent with the statutory scheme.

The regulation should provide that the curriculum committee meet quarterly in order to ensure that it will process approved curriculum within 90 days of submission.

RESPONSE: The Division disagrees with this comment. The proposed regulation requires that the committee meet at least twice a year at a minimum. However, it does not prevent the committee from meeting more often, and does not relieve the committee from the provision to act on an application for curriculum approval within 90 days. Regulation 296.0(c). The Division considers that a requirement to meet at least twice a year is sufficient under such circumstances.

The regulation should provide that the advisory members of the Curriculum Committee do more than attend meetings – e.g., perform site visits of applicants for curriculum approval, such as a 2- or 4-member team with joint and merit shop representation to inspect facilities for adequate materials and supplies and report back to the committee.

RESPONSE: The Division notes that this comment is addressed to the statutory directive that the committee be comprised of representatives of the State Department of Education, the California Community Colleges, and the Division. Labor Code §3099(a)(3). As such, it does not address the present rulemaking and thus does not require a response. The Division further notes that Regulation 296.0(a) provides that the committee members may appoint up to three non-voting advisory members to attend committee meetings. The Division considers that the participation of advisory members to the committee should be within the discretion of the committee members designated by the Legislature.

Regulation 296.0(c)

The regulation should require that Educational Providers submit contact information in their application so that the Curriculum Committee knows whom to contact.

RESPONSE: The Division disagrees with this comment. The Division considers that applicants seeking approval would submit such contact information in their application materials without a specific directive, and that the materials required for application under Regulation 296.0(c) would naturally include such contact information without a specific directive.

The regulation should use the term “crosswalk” instead of the phrase “a document that identifies how each element in the Curriculum Standards is covered in the proposed curriculum.” There should also be a “crosswalk” model document on the Division’s website as approved by the Curriculum Committee so that people can download it and so that the Curriculum Committee has consistent documents being submitted to it.

RESPONSE: The Division disagrees with these comments. The term “crosswalk” may not be familiar to all interested parties. The phrase “a document that identifies how each element in the Curriculum Standards is covered in the proposed curriculum” describes the document required with sufficient clarity, using commonly understood words. The comment regarding the posting of a model document on the website is not addressed to the proposed regulations and thus does not require a response.

The regulation should provide that the Educational Provider’s application for curriculum approval include a document showing the hours of lab and classroom instruction which should be part of the “crosswalk” and should also include total hours.

RESPONSE: The Division disagrees with this comment. The statutory authority establishes that approved curriculum means a curriculum of classroom instruction approved by the electrician certification curriculum committee, provided under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges. Labor Code §3099.4(b). Since the committee, State Department of Education, and the California Community Colleges have jurisdiction to determine the components of approved curriculum, and not the Division, such substantive requirements of the curriculum as hours of lab or total hours of instruction would not be an appropriate subject of these regulations.

The regulation should require that the process for getting curriculum approved be published.

RESPONSE: The Division disagrees with this comment. The regulation itself is the vehicle by which the process for curriculum approval be publicized. It is not necessary to promulgate a regulation providing that the contents of the regulation itself be published.

The regulation should provide that the Chancellor of the California Community Colleges may approve any curriculum program he feels meet the standards, whether it’s hands-on, or book work, or over the internet, since the goal is to train individuals to pass the certification test.

RESPONSE: The Division notes that this comment is addressed to the statutory directive that curriculum be approved by the electrician certification curriculum committee in Labor Code §3099.4(b). As such, it is not addressed to the present rulemaking and thus does not require a response.

The regulation should provide that the providers of the Approved Curriculum must be required to have site visits to ensure compliance and the ability to provide all aspects in the curriculum standards.

RESPONSE: The Division disagrees with these comments. The Division notes that the Legislature has vested the authority for approval of curriculum in the electrician certification curriculum committee, Labor Code §3099(a)(3), and has vested the authority for provision of the curriculum under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges as set forth in Labor Code §3099.4(b). As such, the Division considers that the substantive requirements of curriculum provision raised by this comment are best addressed to those bodies, and they are not a subject of the present rulemaking.

Regulation 296.0(d)

Regulation 296.0(d) should require an Educational Provider to state clearly in all promotional materials for its electrician training that its program is an approved educational provider, offering DAS-approved curriculum, to avoid problems such as occurred in Kentucky with unapproved programs.

RESPONSE: The Division disagrees with this comment. The Division considers that Regulation 206.0's requirement that an Educational Provider must include language in publications regarding its Approved Curriculum that notifies which elements of the Curriculum Standards are covered, and which are not, is a sufficient safeguard against the possibility of misleading information, misrepresentation, or false advertising by a provider.

Regulation 296.0(e)

The regulation should require that DAS publish *both* electronically *and* in print a list of educational providers along with their approved curriculum, not permit DAS to publish in one form or the other.

RESPONSE: The Division disagrees with this comment. The regulation provides that publication be made minimally in one form. It does not prohibit the Division from publishing in more than one form, and provides that any publication be made available to the public upon request. The Division considers that publication in one form is sufficient as a minimal requirement, while affording the Division flexibility in how it publishes the information.

The regulation should clarify when the list of educational providers will be available.

RESPONSE: The Division disagrees with this comment. Once the proposed regulation takes effect, it will place the Division under a regulatory obligation to make the list available. It is not necessary or feasible to provide a specific date of availability within the body of the regulation itself.

296.1 Applying for and Renewing Registration as an Electrician Trainee

General Comments

Clarification is needed regarding how these regulations will be enforced -- for example, what are the consequences to the worker or contractor if you're working but not certified or a trainee.

RESPONSE: The Division disagrees with these comments. Labor Code §3099.4(f) authorizes the Division to issue regulations to implement this section regarding electrician trainees, not to enforce. Subsection (a)(3) of the statute provides the Division with limited enforcement authority, to bar employers who fail to provide direct supervision of their trainees from employing trainees in the future. Thus, a general enforcement regulation would be outside the scope of these regulations. Regarding workers who claim to be certified but are not, Regulation 294.0 already provides for enforcement in that such workers would be barred from taking the certification test for a period of five (5) years. Regulation 294.0 is sufficiently clear regarding its enforcement provisions, and is not, in any case, a subject of the present rulemaking.

One comment inquired as to when electrician trainee applications would be available.

RESPONSE: The Division notes that this is not a comment on the regulations, and thus a response is not required.

Applicants for electrician trainee should be allowed to take credit for on-the-job training and school, and the regulation should provide that registration application have a place to list prior on-the-job training and relevant classes completed.

RESPONSE: The Division disagrees with this comment. The electrician trainee program was enacted by the Legislature as a way for uncertified persons to perform work for which certification is required, in order to acquire the necessary on-the-job experience for certification. Labor Code §3099.4(a). The Legislature further determined that uncertified persons must meet three conditions to enjoy this status, one condition of which is to have completed or enrolled in an approved curriculum. Labor Code §3099.4(a)(1), (2), (3). The Legislature vested the authority for approval of curriculum in the electrician certification curriculum committee, Labor Code §3099(a)(3), and vested the authority for provision of the curriculum under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges set forth in Labor Code §3099.4(b). As such, the Division considers that the question of credit for prior schooling is best addressed to those bodies, and it is not a subject of the present rulemaking. The Division further notes that an uncertified person can already apply for certification if he or she has sufficient work experience, and can include a request for credit for other experience in the certification application. Regulation 291.1.

The regulation should provide for a way for trainees to prove they are waiting for the State to process their applications.

RESPONSE: The Division disagrees with these comments. The regulation provides a sufficient process for trainee applicants to have their applications processed by providing that submission must be made by mail. Regulation 296.1(b). Proof of mailing would be available to the applicants from their mail carrier. Thus, the regulation as proposed is sufficient to inform trainee applicants of how they can prove they have submitted their application.

The regulation should clarify what is a trainee, whether a trainee is an apprentice, how the electrician trainee program affects apprenticeship, and whether the electrician trainee program is any different from a “parallel” apprenticeship program.

RESPONSE: The Division disagrees with these comments. The Division considers that the regulation is sufficiently clear in its provisions regarding electrician trainee, and does not confuse trainee with apprentice. The Division notes that comments addressed to the effect of the electrician trainee program on apprenticeship, or the differences between them, are not addressed to subjects of the present rulemaking and thus do not require a response.

The regulations should not use the term “trainee.” The term “trainee” connotes apprenticeship, which is not accurate, and would mislead the public. The term used should be “uncertified person,” as set forth in Labor Code § 3099.4(a), (f).

RESPONSE: The Division disagrees with these comments. The Division has defined the term “Electrician Trainee” in Regulation 290.1 as one who is registered with the Division pursuant to Labor Code section 3099.4 and these regulations, which is accurate. The Division does not consider that the term “trainee” would mislead the public, and notes that the use of the term “uncertified person” would be unwieldy for everyday use.

The electrician trainee provision circumvents certification and undermines apprenticeship. It seems to be merely a “safe harbor” for those unable to pass certification, to be able to register as a trainee in order to continue working indefinitely without having to become certified.

RESPONSE: The Division notes that these comments are directed to the Legislature’s enactment of the electrician trainee provisions in Labor Code §3099.4. As such, the comments do not address a subject of the present rulemaking and thus do not require a response.

The regulation should clarify how the electrician trainee status will affect public works projects

RESPONSE: The Division disagrees with this comment. The Division’s regulation is proposed pursuant to the authority under Labor Code §3099.4 to implement that statute. It is not necessary to clarify how the electrician trainee statute will affect public works projects in order to implement the statute. The Division also notes that Labor Code §3099.4(g) provides that “For purposes of Section 1773, persons employed pursuant to this section do not constitute a separate craft, classification,

or type of worker.” It would be unnecessary for the Division to issue a regulation that merely repeats this statutory provision.

The regulations should clarify the minimum requirements to be a trainee: *i.e.*, can an individual go to K-Mart, buy a set of tools, convince a contractor to hire him, enroll in an “approved curriculum,” and go to work as a trainee?

RESPONSE: The Division disagrees with these comments. Regulation 296.1 sets forth the requirements for registering to be an electrician trainee with sufficient clarity. The requirements for uncertified electrician trainees to perform work for which certification is required are set forth by the Legislature in Labor Code §3099.4(a), and are not a subject of the present rulemaking.

The regulations should clarify what would be the wage rate and benefit package for a trainee, and how this information is to be reported to the local pension/ health and welfare programs.

RESPONSE: The Division disagrees with these comments. The Division’s regulation is proposed pursuant to the authority under Labor Code §3099.4 to implement that statute. It is not necessary to clarify what would be the wage rate and benefit package for a trainee, or how an employer would report the information to a local pension / health and welfare program. The Division also notes that Labor Code §3099.4(g) provides that “For purposes of Section 1773, persons employed pursuant to this section do not constitute a separate craft, classification, or type of worker.”

A few comments expressed support for the trainee program in general.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response.

The regulation should provide that DAS have no more than 60 days to act on an electrician trainee application, and it should be clarified that the applicant may legally work pending approval. Ideally the time period should be 30 days, as in Regulation 291.2(e).

RESPONSE: The Division disagrees with these comments. The Division considers that 90 days is not an unreasonably long time for the Division to act on trainee applications for registration or renewal. The Division further notes that Regulation 296.1 sets forth the requirements for registering to be an electrician trainee with sufficient clarity. The requirements for uncertified electrician trainees to perform work for which certification is required are set forth by the Legislature in Labor Code §3099.4(a), and are not a subject of the present rulemaking.

Regulation 296.1(c)

Trainee applicants should not be required to provide information on their employer as it violates privacy, may lead to targeted enforcement, there is no legitimate purpose and no authority in the Labor Code for the provision of such information, and it would not be cost-effective for the Division to collect it.

RESPONSE: The Division disagrees with these comments. Labor Code §3099.4(f) directs the Division to issue regulations to implement that statute. The statute includes a provision at subsection (a)(3) that for an uncertified person to perform electrician work for which certification is required -- in order to acquire the necessary on-the-job experience for certification -- the employer of the uncertified person must attest that the person shall be under the direct supervision of a certified electrician. In order to implement the attestation required of the employer, it is reasonable and necessary for the Division to require information from the trainee applicants about their employer. Moreover, Labor Code §3099.4(a)(3) provides that the Division may bar an employer who is found to have failed to provide such supervision from employing uncertified individuals pursuant to this section in the future. It is also reasonable and necessary for the Division to obtain information about the employer in order to carry out this enforcement.

Regulation 296.1(d)

The regulation should require DAS to return materials and refund fee to applicant for applications that are deficient as in Regulation 291.2(e).

RESPONSE: The Division disagrees with these comments. The Legislature has provided that applicants for electrician trainee pay no more than a one-time fee of \$25.00, and contemplated that such fees are to be sufficient to administer this program. Labor Code §3099.4(e). The Division considers that the administrative costs incurred in reviewing applications, whether successful or unsuccessful, justify retention of the one-time fee.

Regulation 296.1(e)

The regulation should clarify whether there will be a standardized form for renewal registration, and whether the current employer will be informed of the approval or deficiencies of the trainee.

RESPONSE: The Division disagrees with these comments. The regulation sufficiently sets forth the requirements for information that must be submitted to renew registration, and does not consider it necessary to require a standardized form. The Division considers that employers may request information about their trainee's registration status from the trainee him- or herself, or may request the publicly available listing information regarding current registrants from the Division. There would be no necessity for a provision requiring the Division to notice the employer with information about the trainee.

296.2 Enrollment in an Approved Curriculum

General Comments

Numerous comments expressed concern that no curriculum or training programs would be geographically or financially accessible in their area.

RESPONSE: The Division notes that these comments are expressions of concern only, and do not constitute a comment on the present rulemaking. Thus, they do not require a response. The Division also notes that it is the Legislature that has determined that an approved curriculum of classroom instruction may be made available to uncertified persons under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges. Labor Code §3099.4(b).

The regulation should clarify how a trainee remains on track in school regardless whether the school is on the semester system or quarter system.

RESPONSE: The Division disagrees with this comment. The Division notes that the Legislature has vested the authority for approval of curriculum in the electrician certification curriculum committee, Labor Code §3099(a)(3), and has vested the authority for provision of the curriculum under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges as set forth in Labor Code §3099.4(b). As such, the Division considers that the monitoring of the trainee's educational progress is best addressed to those bodies. The Division considers that the requirements in the proposed rulemaking for the trainee to show proof of enrollment, and for an Educational Provider to notify the Division if a trainee withdraws from courses after enrolling, are sufficient for its registration program. Regulations 296.1, 296.2.

Regulation 296.2(a)

The regulation should provide flexibility to permit trainees to enroll in curriculums that are packaged to provide 50 hours of classroom instruction in a quarterly system, or 75 hours of instruction in semester system.

RESPONSE: The Division disagrees with these comments. The Division considers that a minimum of 50 hours in a three-semester-per-year system, or 75 hours in a two-semester-per-year system, is a reasonable definition for what constitutes enrollment in an Approved Curriculum.

The regulation on what constitutes enrollment in an Approved Curriculum should clarify that it requires a lab component.

RESPONSE: The Division disagrees with this comment. The statutory authority establishes that approved curriculum means a curriculum of classroom instruction approved by the electrician certification curriculum committee, provided under the jurisdiction of the State Department of Education or the Board of Governors of the California Community Colleges. Labor Code §3099.4(b). Since the committee, State Department of Education, and the California Community Colleges have

jurisdiction to determine the components of approved curriculum, and not the Division, such substantive requirements of the curriculum would not be an appropriate subject of these regulations.

Regulation 296.2(b)

The regulation should clarify the procedures for how an educational provider notifies DAS of an electrician trainee withdrawing from curriculum, e.g., certified letter, or what? The term “notify” is too broad.

RESPONSE: The Division disagrees with these comments. The Division does not consider it necessary or desirable to restrict the forms by which an Educational Provider may notify the Division of an Electrician Trainee’s withdrawal from courses after enrolling.

DAS should be *required* to request verification of applicant’s enrollment from Educational Provider, and should note that such verification does not guarantee applicant is actually attending classes.

RESPONSE: The Division disagrees with these comments. A regulatory requirement that the Division must request verification of enrollment on every application may not be workable in every case. The Division should have the flexibility to request verification to the extent that it considers it advisable and in line with its resources and priorities.

296.3 Employment of Electrician Trainees

General Comments

The regulation should clarify who ensures that a trainee whose registration is cancelled under Regulation 296.2 does not continue to do certified work.

RESPONSE: The Division disagrees with these comments. The electrician trainee program was enacted by the Legislature as a way for uncertified persons to perform work for which certification is required in order to acquire the necessary on-the-job experience for certification. Labor Code §3099.4(a). The Legislature further determined that the uncertified person must meet three conditions to enjoy this status, one of which is registration with the Division. Labor Code §3099.4(a)(1), (2), (3). It is not necessary to promulgate a regulation to repeat the statutory provisions regarding who may or may not perform work for which certification is required.

The regulation should clarify what legal consideration should be addressed relative to DAS’s shifting role from education agency to enforcement body – i.e., in enforcing complaint against employers.

RESPONSE: The Division notes that these comments do not appear to be addressed to a subject of the present rulemaking and thus do not require a response.

The regulation should not provide for the Chief of DAS to be both the initiator and final authority, as this makes the appeals process almost worthless.

RESPONSE: The Division disagrees with this comment. The appeals process provides an opportunity for the Chief to reconsider a decision, and for the appellant to be heard on it. As such it serves a useful purpose. It is common for administrative agencies to provide a process by which an agency may be appealed to reconsider its own decision.

Regulation 296.3(a)

Numerous comments criticized or opposed the requirement that an electrician trainee be employed subject to the direct supervision of a certified electrician who is responsible for supervising no more than one uncertified person: *aka*, a one-to-one (1:1) ratio.

RESPONSE: The Division disagrees with these comments. The Division notes that the Legislature has required that an electrician trainee be employed subject to the direct supervision of a certified electrician who is responsible for supervising no more than one uncertified person. Labor Code §3099.4(a)(3). Hence, these comments are addressed to a subject outside of the scope of this rulemaking and thus do not require a response.

The regulation should clarify who monitors the 1:1 ratio of certified electrician to trainee.

RESPONSE: The Division disagrees with this comment. Labor Code §3099.4(a)(3) already provides that an employer who is found by the division to have failed to provide adequate supervision may be barred by the Division from employing uncertified individuals pursuant to this section in the future. Regulation 296.3 provides the procedure by which this enforcement may take place. The Division considers that this provides sufficient clarification.

The regulation should clarify the responsibilities of the employer regarding on-the-job training and supervision.

RESPONSE: The Division disagrees with this comment. The Division notes that the Legislature has required that an electrician trainee be employed subject to the direct supervision of a certified electrician who is responsible for supervising no more than one uncertified person. Labor Code §3099.4(a)(3). Regulation 296.3 lends further clarity to this provision by providing that the employer must ensure that the trainee is under the direct, on-site supervision of a Certified Electrician who is responsible for supervising no more than one trainee. The Division considers that this provides sufficient clarification of the employer's responsibilities regarding on-the-job training and supervision.

Regulation 296.3(b)

The regulation should clarify what is meant by "adequate supervision," especially if the Division is going to start enforcing this.

RESPONSE: The Division disagrees with this comment. The Division notes that the Legislature has required that an electrician trainee be employed subject to the

direct supervision of a certified electrician who is responsible for supervising no more than one uncertified person. Labor Code §3099.4(a)(3). Regulation 296.3 lends further clarity to this provision by providing that the employer must ensure that the trainee is under the direct, on-site supervision of a Certified Electrician who is responsible for supervising no more than one trainee. The Division considers that this provides sufficient clarification as to what is meant by “adequate supervision.”

Additional Comments

Numerous comments were submitted addressing various aspects of electrician certification that are not subjects of the present rulemaking, as set forth below.

Temporary power. Comments from the temporary power industry raised many arguments in support of the following contentions:

- Temporary power electricians should be classified under the category of residential electrician.
- Temporary power electricians should constitute a separate category of certified electrician, with different work-experience hour requirements.
- Temporary power electricians should be exempt from certification due to the nature of this specialty field.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response. The classification of electrician categories is a matter entrusted to the Division under Labor Code §3099.2(c), and was a subject of the Division’s prior rulemaking. Moreover, the scope of electrical work subject to certification is established in the applicable statutes – Labor Code §§3099, 3099.2 – and is not repeated in the regulations.

Deadline for certification. Several comments addressed the deadline for certification, requesting extension or guidance as to how to handle the effects of the deadline with their workforce.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response. Furthermore, the certification deadline has been set by statute, with a limited authority for granting extension vested in the California Apprenticeship Council. Labor Code §3099.2(a).

Exemptions from certification. Numerous California electrician license holders, including B and C-10 licenses, commented that there should be an exemption from certification based on their licenses. One comment suggested that if C-10 license holders were exempt from certification, then electrical engineers should be, too. A number of comments requested exemption for special trades that perform electrical work for their own companies, or for the broadcast TV and production service segment of the industry. A comment was made that for highly repetitive retrofit work that does not include line work or panel work, testing should not be required. A suggestion was also made to “grandfather” those with more than six years’ electrical trade experience into certification.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response. Moreover, the scope of electrical work subject to certification is established in the applicable statutes – Labor Code §§3099 (including a limited exception for certain work in the theatrical, motion picture production, television, hotel, exhibition, and trade show industries at subsection (c)), 3099.2, and do not exempt C-10 license holders *per se*. There is no necessity for the provisions of the applicable statutes to be repeated in the regulations.

Inquiries regarding certification requirement. Certain comments were actually inquiries regarding whether certification was required under particular situations. Some went on to ask that if certification were required, what would be the ratio of apprentices to licensed electricians, or what tests would be required of their employees. Some comments asked how the certification requirement would apply to homeowners, either building homes under a homeowners permit, or performing other electrical work on their home.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response. Moreover, the scope of electrical work subject to certification is established in the applicable statutes – Labor Code §§3099, 3099.2 – and is not repeated in the regulations.

Opinions regarding certification requirement. Many comments were actually expressions of opinion about the requirement for certification. Numerous comments opposed the certification requirement, raising numerous arguments in support of their opposition. Some comments requested that the Division review statistics related to insurance loss with regard to whether a need exists for certification. Some comments requested that the Division and CSLB communicate and provide product information to assist contractors in becoming familiar with the certification process. One comment suggested a re-write of Regulation 290.0, which describes the scope and application of the electrician certification regulations. Other comments expressed opposition to the certification requirement in connection with their opinion that the approved curriculum for electrician trainees would not be available in certain geographic areas. Several comments expressed general support for the proposed rulemaking, for electrician certification, and for the promotion of education in the field.

RESPONSE: The Division notes that these comments are not addressed to the present rulemaking and thus do not require a response. Moreover, the requirement for mandatory certification has been enacted by the Legislature into statute. Labor Code §3099.2(a).

Alternatives Determination

The Division, following completion of the rulemaking process including review of the public comments, has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. Proposed alternatives raised by the comments were rejected for the reasons set forth in the Division's responses.